

Docket: 80043

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Hochstetler et al.

Serial No.: 10/673,895

Group Art Unit:

Filed: 09/29/2003

Examiner:

For: DETECTION OF LIVING CELLS IN POLYMERS OR PIGMENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT**  
**UNDER 37 CFR 1.97(b)**

In accordance with 37 CFR 1.56, the documents listed on the attached Information Disclosure Statement by Applicant are being brought to the attention of the Examiner for consideration in connection with the examination of the above-identified patent application. Although all documents should be considered in their entirety, Applicants wish to direct the Examiner's attention in particular to the following:

<b>Patent No. or Title</b>	<b>Name of Patentee or Applicant of Cited Document</b>	<b>Date of Publication of Cited Document MM-DD-YYYY</b>
US 3,745,090	Chappelle et al	07-10-1973
US 3,933,592	Clendenning	01-20-1976
US 5,707,860	Collis et al.	01-13-1998
US 5,464,773	Melendez et al.	11-07-1995
US 4,421,848	Whitlock	12-20-1983
DE 196 25 137 A1	Balk et al.	01-08-1998
6,455,287	Jem	09-24-2002
6,180,395	Skiffington et al.	01-30-2001
5,827,675	Skiffington et al.	10-27-1998
WO 97/23596 A1	Goodfield et al.	07-03-1997

Nielsen et al., *J. Assoc. Off. Anal. Chem.* (1989), 72, 708-711.

Copies of the cited documents are enclosed.

Also, the Examiner's attention is directed to the publications by Roche Diagnostics Corporation, cited in the attached Information Disclosure Statement. These

documents were retrieved from the internet with no record of the date of retrieval. Applicants' representative, however, believes that these documents were retrieved on or about November 1, 2002.

The Information Disclosure Statement submitted herewith is being filed within three months of the filing date of the application or date of entry into the national stage of an international application or before the mailing date of a first Office Action on the merits, whichever event occurs last.

Respectfully submitted,

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*December 16, 2003*  
Date

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CERTIFICATE OF MAILING UNDER 37 CFR 1.8(a)

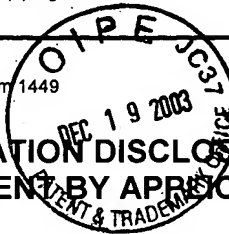
I hereby certify that this paper (along with any paper(s) referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

*Cathy L. Adkins*  
Cathy L. Adkins

*12/16/03*  
Date

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Substitute for form 1449 <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b> 		Attorney Docket Number	80043-01
		First Named Inventor	Hochstetler et al.
		COMPLETE IF KNOWN	
		Application Number	10/673,895
		Filing Date	09/29/2003
		Group Art Unit	
Sheet	1	of	4
		Examiner Name	

U.S. PATENT DOCUMENTS				
Examiner Initials*	Cite No. <sup>1</sup>	U.S. Patent Document		Date of Publication of Cited Document MM-DD-YYYY
		Number	Kind Code <sup>2</sup> (if known)	
		3,172,546		Schreiner
		3,616,253		D'Eustachio
		3,745,090		Chappelle et al
		3,933,592		Clendenning
		4,144,134		Plakas
		4,295,613		Moore et al.
		4,303,752		Kolehmainen et al
		4,333,611		Zucker et al.
		4,385,113		Chappelle et al.
		4,421,848		Whitlock
		5,004,684		Simpson et al.
		5,074,474		Golz et al.
		5,371,148		Taylor et al
		5,374,522		Murphy et al.
		5,464,773		Melendez et al.
		5,558,986		Lundin
		5,567,050		Zlobinsky et al.
		5,624,810		Miller et al.
		5,707,860		Collis et al.
		5,736,351		Miller et al.
		5,766,868		Seto

Examiner Signature		Date Considered	
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\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup>Unique citation designation number. <sup>2</sup>See attached Kinds of U.S. Patent Documents. <sup>3</sup>Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup>For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup>Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. <sup>6</sup>Applicant is to place a check mark here if English language Translation is attached.

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Sheet	2	of	4	Examiner Name	

		5,783,399		Childs et al.	07-21-1998
		5,798,214		Squirrell	08-25-1998
		5,827,675		Skiffington et al.	10-27-1998
		5,916,802		Andreotti	06-29-1999
		5,942,425		Walters et al.	08-24-1999
		5,962,310		Collis et al.	10-05-1999
		6,100,084		Miles et al.	08-08-2000
		6,180,395	B1	Skiffington et al.	01-30-2001
		6,235,501	B1	Gautsch et al.	05-22-2001
		6,391,541	B1	Petersen et al.	05-21-2002
		6,431,476	B1	Taylor et al.	08-13-2002
		6,455,287	B1	Jem	09-24-2002
		6,479,277	B2	Duncan	11-12-2002

FOREIGN PATENT DOCUMENTS							
Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document			Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	T <sup>6</sup>
		Office <sup>3</sup>	Number <sup>4</sup>	Kind Code <sup>5</sup> (if known)			
		EP	0 036 699	A1	Holmes et al.	09-30-1981	
		SU	1 382 848	A1	Olenev et al.	03-23-1988	√
		EP	0 173 215	B1	Bartfeld et al.	06-09-1993	
		EP	0 439 525	B1	Johnson et al.	03-01-1995	
		WO	95/07457	A2	Johnson	03-16-1995	
		WO	96/07759	A1	Foote et al.	03-14-1996	
		JP	9-121896	A	Okazaki et al.	05-13-1997	√
		WO	97/23596	A1	Goodfield et al.	07-03-1997	

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	EP	0 542 790	B1	Pahuski et al.	12-10-1997	
	DE	196 25 137	A1	Balk et al.	01-08-1998	√
	EP	0 967 269	A1	Brooks	12-29-1999	
	WO	00/70040	A1	Bitner et al.	11-23-2000	
	WO	01/38846	A1	Reilly et al	05-31-2001	
	EP	1 178 118	A1	Bijl et al.	02-06-2002	

OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author(in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, pages(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>6</sup>
		Nielsen et al., <i>J. Assoc. Off. Anal. Chem.</i> (1989), <u>72</u> , 708-711.	
		Promega Corporation, ENLITEN <sup>®</sup> Total ATP Rapid Biocontamination Detection Kit, 2002, retrieved from the Internet on 11-01-2002: <a href="http://www.promega.com/faq/enlighten.html">http://www.promega.com/faq/enlighten.html</a> , pages 1-2	
		Promega Corporation, CellTiter-Glo <sup>™</sup> Luminescent Cell Viability Assay, 2002, retrieved from the Internet on 11-01-2002: <a href="http://www.promega.com/faq/CellTiterGlo.html">http://www.promega.com/faq/CellTiterGlo.html</a> , pages 1-5.	
		Promega Corporation, ENLITEN <sup>®</sup> ATP Assay System Bioluminescence Detection Kit for ATP, July 2002, retrieved from the Internet on 11-01-2002: <a href="http://www.promega.com/tbs/tb267/tb267.pdf">http://www.promega.com/tbs/tb267/tb267.pdf</a> , pages 1-5.	
		Roche Diagnostics Corporation, ATP Bioluminescence Assay Kit CLS II [online], Version 3, July 1999, believed to be retrieved from the Internet on 11-01-2002: < <a href="http://biochem.roche.com/pack-insert/1699695a.pdf">http://biochem.roche.com/pack-insert/1699695a.pdf</a> > , pages 1-4.	

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<b>Sheet</b>	<b>4</b>	<b>of</b>	<b>4</b>	<b>Examiner Name</b>	

		Roche Diagnostics Corporation, Luciferase Reporter Gene Assay, high sensitivity [online], October 1999, believed to be retrieved from the Internet on 11-01-2002: < <a href="http://biochem.roche.com/pack-insert/1669893a.pdf">http://biochem.roche.com/pack-insert/1669893a.pdf</a> > , pages 1-14.	
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